

# BROKER SUPERVISION & CONTROL

## AUDIT DECLARATION

The Designated Broker shall complete this Audit Declaration and return it to the Department of Real Estate concurrent with Broker's license renewal to:

Arizona Department of Real Estate  
2910 North 44<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85018

OR

Arizona Department of Real Estate  
400 W. Congress, Suite 523  
Tucson, Arizona 85701

An Equal Employment Opportunity Agency

Pursuant to A.R.S. § 32-2153(A)(17) and A.A.C. R4-28-303(A)(2)(f), this Audit Declaration is required as part of the Designated/Self Employed Broker's Renewal Application or as determined appropriate by the Department's Audit Division. This Audit Declaration does not preclude an onsite or field audit of the books and records of the brokerage pursuant to A.R.S. §§ 32-2108(A), 32-2151.01(A) and 32-2175(H). The Department will use the information in the completed Audit Declaration when conducting any future field audit.

The Audit Declaration is an important report that will become a public record and be kept by the Department for at least five years. Please complete, sign and return the Audit Declaration to the Department with the License Renewal forms and fees. **ALL NO answers require further explanation** on Page 8. If you have questions relating to how to respond to any item, you may email your question(s) to [auditing@re.state.az.us](mailto:auditing@re.state.az.us). Statutes and rules are summarized, refer to the quoted source when answering the questions.

**ADMINISTRATIVE-PRINT CLEARLY**

\_\_\_\_\_  
[DESIGNATED BROKER'S NAME/BUSINESS PHONE NUMBER]

\_\_\_\_\_  
[LICENSE NUMBER]

\_\_\_\_\_  
[BROKERAGE BUSINESS NAME/DBA]

\_\_\_\_\_  
[LICENSE NUMBER]

\_\_\_\_\_  
[BUSINESS STREET ADDRESS] IS THIS A HOME OFFICE? \_\_\_\_\_

\_\_\_\_\_  
[CITY/COUNTY/STATE/ZIP CODE]

Number of salespersons and associate brokers licensed to the brokerage: \_\_\_\_\_  
(DO NOT include the Designated Broker)

Number of unlicensed employees at the brokerage (part-time and full-time): \_\_\_\_\_

Average number of Sales and Lease transactions handled per year: \_\_\_\_\_

The brokerage conducts (check all that apply): ☐ Residential Real Estate

☐ Commercial Sales and Leasing ☐ Business Brokerage ☐ Farm and Ranch

☐ Residential Property Management ☐ Commercial Property Management

☐ New Home Subdivision ☐ Other Subdivision/Unsubdivided Land ☐ Timeshare

☐ Other (list): \_\_\_\_\_

## BROKER SUPERVISION & CONTROL AUDIT DECLARATION

### **GENERAL RECORDS COMPLIANCE**

- ☐ Yes ☐ No ☐ N/A      Signage is properly affixed at the main entrance to the brokerage office and each branch office and is in clearly visible lettering. A.R.S. §§ 32-2126(B), 32-2127(B) and A.A.C. R4-28-502(E) **(Explain any exemptions on page 8.)**
- ☐ Yes ☐ No ☐ N/A      The employing broker (if applicable) and the designated broker license certificates are "prominently displayed." A.R.S. § 32-2128
- ☐ Yes ☐ No ☐ N/A      Salesperson and associate broker license certificates are "readily available." A.R.S. § 32-2128
- ☐ Yes ☐ No ☐ N/A      All salesperson's and associate broker's licenses are current. A.R.S. § 32-2128
- ☐ Yes ☐ No ☐ N/A      If records are stored off-site, the Department has been notified in writing of their location in Arizona. A.R.S. §§ 32-2151(B)(2), 32-2151.01(A), 32-2175(A) and 32-2194.06(B)
- ☐ Yes ☐ No ☐ N/A      Transaction records are kept for 5 years after termination of transaction. A.R.S. §§ 32-2151.01(A) and 32-2153(A)(18)
- ☐ Yes ☐ No ☐ N/A      All employee records are kept for 5 years after termination. A.R.S. § 32-2151.01(A)

### **BROKER REVIEW**

- ☐ Yes ☐ No ☐ N/A      The designated broker reviews, dates and initials all employment agreements, sales contracts, leases (as applicable) and similar documents within 5 days of execution. A.R.S. § 32-2151.01(G)
- ☐ Yes ☐ No ☐ N/A      The designated broker supervises all advertising. A.A.C. R4-28-502(F)

### **EMPLOYMENT AND COMPENSATION**

- ☐ Yes ☐ No ☐ N/A      The broker has paid compensation only to actively and properly licensed salespersons, associate brokers and brokerages. A.R.S. § 32-2155(A) and (B)
- ☐ Yes ☐ No ☐ N/A      The broker has not paid compensation to an agent's corporation, LLC or general partnership, other than a properly licensed professional corporation (PC) or professional limited corporation (PLC). A.R.S. §§ 32-2125(B) and 32-2155(A)
- ☐ Yes ☐ No ☐ N/A      All salespersons and associate brokers are licensed and receive compensation only as natural licensees, PCs or PLCs. A.R.S. §§ 32-2125(B) and 32-2155(A)
- ☐ Yes ☐ No ☐ N/A      Brokerage and licensees are not paid for negotiating loans, unless they meet all of the regulatory requirements. A.R.S. §§ 32-2101(47)(k) and 32-2155(C)

## BROKER SUPERVISION & CONTROL AUDIT DECLARATION

- ☐ Yes ☐ No ☐ N/A All legal real estate related rebates, compensation sharing or profit participation are paid through the brokerage. A.R.S. §§ 32-2153(A)(7) and 32-2155(A)
- ☐ Yes ☐ No ☐ N/A The agents of the brokerage work exclusively for this brokerage and, absent an agreement between the brokerages, do not represent another brokerage, either through substituting for a vacationing agent of another brokerage, the use of another brokerage's transaction coordinator or continuing the service of a transaction after leaving a former brokerage, or similar activity. A.R.S. § 32-2153(A)(8)
- ☐ Yes ☐ No ☐ N/A Unlicensed personal assistants and other unlicensed employees receive compensation based on their work, unrelated to the success of a transaction. A.R.S. § 32-2121(A)(6) and (9)
- ☐ Yes ☐ No ☐ N/A If unlicensed telemarketers are used, they are in the employ of the brokerage. A.R.S. §§ 32-2121(A)(10) and 32-2197.17(H)

### **DISCLOSURES**

- ☐ Yes ☐ No ☐ N/A The broker or the broker's agents have disclosed their status as licensees in their ads and signage. A.A.C. R4-28-502(B)
- ☐ Yes ☐ No ☐ N/A The broker or the broker's agents have not acted directly or indirectly without informing the other parties of any prospective interest or conflict in the transaction. A.A.C. R4-28-1101(E)
- ☐ Yes ☐ No ☐ N/A The broker or the broker's agents have obtained written permission from owners before profiting from the transfer or assignment of listings or property management agreements to another brokerage. A.R.S. § 32-2173(A)(1)(j), 32-2151.02(B) and A.A.C. R4-28-1101(G)
- ☐ Yes ☐ No ☐ N/A The broker or broker's agents disclose in writing any information they possess that materially and adversely affects the consideration to be paid. A.A.C. R4-28-1101(B)
- ☐ Yes ☐ No ☐ N/A The broker or broker's agents obtain informed consent of the parties before representing more than one party to a transaction or receiving compensation from more than one party. A.R.S. § 32-2153(A)(2), A.A.C. R4-28-1101 (F)
- ☐ Yes ☐ No ☐ N/A The broker or broker's agents obtain written permission prior to acting outside of their area of expertise. A.A.C. R4-28-1101(H)
- ☐ Yes ☐ No ☐ N/A The broker or broker's agents fulfill their duties to clients, including (but not limited to) protecting and promoting client's interests; expeditiously performing all acts resulting from an agreement; not allowing a controversy with another licensee to jeopardize the transaction; and other duties. A.A.C. R4-28-1101(A) through (K)

## BROKER SUPERVISION & CONTROL AUDIT DECLARATION

### **SALES/LEASE TRANSACTION RECORDS**

- ☐ Yes ☐ No ☐ N/A      The broker maintains legible copies of transaction documents required by law to be kept for 5 years after termination (close) of a transaction. A.R.S. §§ 32-2151.01(A) and 32-2153(A)(18)
- ☐ Yes ☐ No ☐ N/A      A copy of all documentation handled by the brokerage or its agents is available to the Department on request for 5 years after every terminated transaction. A.R.S. §§ 32-2108(A), 32-2151.01(A) and 32-2175(H)
- ☐ Yes ☐ No ☐ N/A      Nonresidential leases are kept for 5 years from termination. A.R.S. § 32-2151.01(A)
- ☐ Yes ☐ No ☐ N/A      Rejected offers are kept for 1 year, or 5 years if a binding contract ultimately results. A.R.S. § 32-2151.01(I)
- ☐ Yes ☐ No ☐ N/A      Broker transaction files are kept chronologically or by other systematic means. A.R.S. § 32-2151.01(E)

### **EARNEST DEPOSITS**

- ☐ Yes ☐ No ☐ N/A      Agents of the brokerage promptly place all cash, checks, or other items received as payment in connection with a real estate transaction, in the care of the designated broker. A.R.S. § 32-2151.01(D)
- ☐ Yes ☐ No ☐ N/A      The broker immediately places all funds entrusted to the broker in a neutral escrow or trust account. A.R.S. §32-2151(A)

### **GENERAL/SALES/EARNEST TRUST ACCOUNT**

- ☐ Yes ☐ No      The broker maintains one or more general trust accounts. **If you answered YES, please identify them on Page 9. If you answered NO, skip to the “Delegation of Authority” section.**

[NOTE: BANK ACCOUNT INFORMATION IS REQUESTED SEPARATELY ON PAGE 9. THE DEPARTMENT TREATS THIS INFORMATION AS CONFIDENTIAL AND DOES NOT INCLUDE IT IN A PUBLIC RECORDS INSPECTION REQUEST.]

- ☐ Yes ☐ No ☐ N/A      The broker maintains a descriptive receipt showing the disposition of all trust account funds handled on behalf of a principal, identifying or showing the transaction, date, amount and parties. A.R.S. § 32-2151(B)(1)
- ☐ Yes ☐ No ☐ N/A      Trust account records include a properly descriptive Receipts and Disbursements Journal **and Client Ledger** for each transaction. A.R.S. § 32-2151(B)(2)
- ☐ Yes ☐ No ☐ N/A      Trust account journals and client ledgers are in balance with each other and are reconciled monthly with bank statements. A.R.S. § 32-2151(B)(2)

## BROKER SUPERVISION & CONTROL AUDIT DECLARATION

- ☐ Yes ☐ No ☐ N/A      The broker removes interest earnings in a trust account at least every 12 months. A.R.S. § 32-2151(B)(2)
- ☐ Yes ☐ No ☐ N/A      The broker removes any amount in excess of \$500 of the broker's money in a trust account immediately. A.R.S. § 32-2151(B)(2)
- ☐ Yes ☐ No ☐ N/A      Authorized signers on trust accounts are limited to licensees in the employ of the broker. A.R.S. § 32-2151.01(B)

### **DELEGATION OF AUTHORITY**

√ If applicable, there is a current and properly detailed delegation letter in the broker's files for each appropriate person, acting on behalf of the Broker, to:

- ☐ Yes ☐ No ☐ N/A      Review, date and initial employment agreements, contracts and similar documents. A.R.S. § 32-2151.01(G)
- ☐ Yes ☐ No ☐ N/A      Act as the branch manager for a licensed branch office. A.A.C. R4-28-304 (B)
- ☐ Yes ☐ No ☐ N/A      Be a signer on a trust account. A.R.S. §§ 32-2151.01(B) and 32-2174(C)
- ☐ Yes ☐ No ☐ N/A      Act on behalf of the Designated Broker when the broker is unable to act within 24 hours. A.R.S. § 32-2127(D)
- ☐ Yes ☐ No ☐ N/A      Be a signer on the general account or other account of the brokerage for payment of commissions. A.A.C. R4-28-304 (B)(1)(d)

### **BROKER SUPERVISION & CONTROL**

Broker has a Written Supervision Policy. A.A.C. R4-28-1103      ☐ Yes ☐ No

If no, provide an explanation on Page 8; if necessary, include a timeframe for completion within the next 21 days.

√ The written Broker Supervision Policy addresses:

- ☐ Yes ☐ No ☐ N/A      Transactions requiring a salesperson's or broker's license.
- ☐ Yes ☐ No ☐ N/A      Use of disclosure forms, contracts, and employment agreements and documents affecting the rights or obligations of parties.
- ☐ Yes ☐ No ☐ N/A      Filing, storage and maintaining documentation.
- ☐ Yes ☐ No ☐ N/A      Handling of trust funds.
- ☐ Yes ☐ No ☐ N/A      Use of unlicensed assistants by a salesperson or broker.
- ☐ Yes ☐ No ☐ N/A      The delegation of authority to others to act in the Broker's behalf.
- ☐ Yes ☐ No ☐ N/A      How the Broker familiarizes the agents with the requirements of state, federal and local laws relating to the practice of real estate.
- ☐ Yes ☐ No ☐ N/A      Advertising and marketing of the brokerage and its agents and others.
- ☐ Yes ☐ No ☐ N/A      Establishing a system for monitoring compliance with the broker's policies, rules, procedures and systems contained in the Broker Supervision Policy.

## BROKER SUPERVISION & CONTROL AUDIT DECLARATION

### **PROPERTY MANAGEMENT**

√ The brokerage conducts property management      ☐ Yes ☐ No

**If you answered NO, skip to the "Additional Explanation" section on Page 8. If you answered YES, continue with this section and list the number and type(s) of properties managed.**

☐ Residential: \_\_\_\_\_ Single Family Homes      \_\_\_\_\_ Multi Family Units  
   \_\_\_\_\_ Other

☐ Commercial: \_\_\_\_\_ Shopping Centers      \_\_\_\_\_ Commercial/Industrial Buildings  
   \_\_\_\_\_ Other

### **PROPERTY MANAGEMENT AGREEMENTS**

√ Each property management agreement entered into by the brokerage:

☐ Yes ☐ No ☐ N/A      Is drafted in clear and unambiguous language. A.R.S. § 32-2173(A)

☐ Yes ☐ No ☐ N/A      Specifies a beginning and ending date. A.R.S. § 32-2173(A)(1)(c)

☐ Yes ☐ No ☐ N/A      Is executed by the appropriate parties. A.R.S. § 32-2173(A)(1)(b)

☐ Yes ☐ No ☐ N/A      States all material terms and conditions of the property management firm's services, obligations, duties and responsibilities to the property owner. A.R.S. § 32-2173(A)(1)(a)

☐ Yes ☐ No ☐ N/A      Contains mutually agreeable cancellation terms. A.R.S. § 32-2173(A)(1)(d)

☐ Yes ☐ No ☐ N/A      Provides for the manner of disposition of all owner's monies collected by the broker. A.R.S. § 32-2173(A)(1)(e)

☐ Yes ☐ No ☐ N/A      States the terms and conditions of broker compensation. A.R.S. § 32-2173(A)(1)(a) and (i)

☐ Yes ☐ No ☐ N/A      Specifies the type and frequency of reports to the owner. A.R.S. § 32-2173(A)(1)(f)

☐ Yes ☐ No ☐ N/A      States the amount and purposes of monies held by the broker as an operating reserve for emergency and other purposes. A.R.S. § 32-2173(A)(1)(g)

**ARS 32-2173(A)(2) provides that the following MAY be included in the agreement.**

**If part of the property management agreement answer Yes or No, if not, answer N/A.**

☐ Yes ☐ No ☐ N/A      Includes an automatic renewal with at least 30 days advance written notice. A.R.S. § 32-2173(A)(2)(a)

☐ Yes ☐ No ☐ N/A      Provides for reasonable liquidated damages for early termination of the agreement. A.R.S. § 32-2173(A)(2)(b)

☐ Yes ☐ No ☐ N/A      Identifies the licensees and unlicensed persons in the broker's direct employ who are authorized signers on the property management trust account. A.R.S. § 32-2173(A)(2)(c)

☐ Yes ☐ No ☐ N/A      Requires more than one signature on the property management trust account. A.R.S. § 32-2173(A)(2)(d)

## BROKER SUPERVISION & CONTROL AUDIT DECLARATION

### **PROPERTY MANAGEMENT RECORDS**

- ☐ Yes ☐ No ☐ N/A All financial records are kept for 3 years from their date. A.R.S. § 32-2175(C)
- ☐ Yes ☐ No ☐ N/A Property management agreements are kept for 5 years from their termination. A.R.S. § 32-2151.01(A)
- ☐ Yes ☐ No ☐ N/A Residential leases are kept for the earlier of 1 year from termination of the lease, or until turned over to the owner or owner's broker at termination of the property management agreement. A.R.S. § 32-2175(A)
- ☐ Yes ☐ No ☐ N/A Nonresidential leases are in individual folders filed chronologically or by other systematic manner. A.R.S. § 32-2175(F)
- ☐ Yes ☐ No ☐ N/A Property management agreements are filed using an orderly system easily accessible to the Department. A.R.S. § 32-2175(F)
- ☐ Yes ☐ No ☐ N/A Records of finder fees paid are kept for 3 years from their date. A.R.S. § 32-2175(B)

### **PROPERTY MANAGEMENT TRUST ACCOUNT**

- ☐ Yes ☐ No The broker maintains one or more property management trust accounts. **If you answered YES, please identify them on Page 9. If you answered NO, skip to the "Additional Explanation" section on Page 8.**

[NOTE: BANK ACCOUNT INFORMATION IS REQUESTED SEPARATELY ON PAGE 9. THE DEPARTMENT TREATS THIS INFORMATION AS CONFIDENTIAL AND DOES NOT INCLUDE IT IN A PUBLIC RECORDS INSPECTION REQUEST.]

- ☐ Yes ☐ No ☐ N/A A descriptive receipt is maintained showing the disposition of all funds handled on behalf of a principal, identifying or showing the transaction, date, amount and parties. A.R.S. § 32-2151(B)(1)
- ☐ Yes ☐ No ☐ N/A Trust account records include a properly descriptive Receipts and Disbursements Journal **and Client Ledger** for each transaction. A.R.S. § 32-2151(B)(2)
- ☐ Yes ☐ No ☐ N/A Trust account Journals **and Client Ledgers** are in balance with each other and are reconciled monthly with bank statements. A.R.S. § 32-2151(B)(2)
- ☐ Yes ☐ No ☐ N/A The broker removes interest earnings in trust accounts at least every 12 months. A.R.S. § 32-2151(B)(2)
- ☐ Yes ☐ No ☐ N/A The broker immediately removes any amount in excess of \$500 of the broker's money in a trust account. A.R.S. § 32-2151(B)(2)

## BROKER SUPERVISION & CONTROL AUDIT DECLARATION

- ☐ Yes ☐ No ☐ N/A      Authorized signers on trust accounts are limited to licensees and unlicensed persons in the direct employ of the broker. A.R.S. § 32-2174(C)
- ☐ Yes ☐ No ☐ N/A      Broker deposits owner's monies into the property management trust account or directly into the owner's account within 3 banking days. A.R.S. §§ 32-2151(C), 32-2153(A)(9) and 32-2174(B) & (D)
- ☐ Yes ☐ No ☐ N/A      All trust accounts are descriptively designated as trust accounts. A.R.S. § 32-2174(A)
- ☐ Yes ☐ No ☐ N/A      A final accounting of a terminated property management agreement is provided to the owner. A.R.S. § 32-2173(C)

### **ADDITIONAL EXPLANATION**

Please provide further explanation below for **any NO answers**, or for any answer above for which inadequate space was provided. If you require additional space to answer a question, please include a further written response as part of this submission.

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### **AUDIT DECLARATION AFFIRMATION**

As the Designated Broker, I have personally completed or personally overseen the completion of this Audit Declaration and have personally reviewed and verified the responses in the Audit Declaration. I understand the importance of the broker's duty to exercise reasonable supervision and control in assuring broker compliance with the law and have made diligent efforts to comply in every respect.

**I hereby declare and affirm** all responses are true, full, complete and accurate to the best of my knowledge. I further understand that any false, misleading or incomplete answers to this Audit Declaration may be construed as a violation of A.R.S. §32-2153 (A)(3), (A)(17), (A)(21), (A)(22) and/or (B)(8).

\_\_\_\_\_  
[SIGNATURE]

\_\_\_\_\_  
[MONTH/DAY/YEAR]

\_\_\_\_\_  
[PRINTED NAME]

**NOTE: THIS PAGE IS REQUIRED WHETHER OR NOT YOU HAVE TRUST ACCOUNTS.**

<p><b>TRUST ACCOUNT INFORMATION -CONFIDENTIAL-</b></p>
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**GENERAL/SALES/EARNEST TRUST ACCOUNT**

☐ Yes ☐ No

Broker maintains one or more general trust accounts. If YES, please identify:

<u>Trust Account Title</u>	<u>Name and Location of Financial Institution</u>	<u>Account Number</u>
----------------------------	---	-----------------------

- |    |       |  |
|----|-------|--|
| 1. | _____ |  |
| 2. | _____ |  |
| 3. | _____ |  |

**PROPERTY MANAGEMENT TRUST ACCOUNT**

☐ Yes ☐ No

Broker maintains one or more property management trust accounts. If YES, please identify:

<u>Trust Account Title</u>	<u>Name and Location of Financial Institution</u>	<u>Account Number</u>
----------------------------	---	-----------------------

- |     |       |  |
|-----|-------|--|
| 1.  | _____ |  |
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| 10. | _____ |  |

\_\_\_\_\_  
[SIGNATURE]

\_\_\_\_\_  
[DATE]